

Nb82CosF

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

22 Cr. 281 (JPO)

5 JOHN COSTANZO, JR.,  
6 MANUEL RECIO,

7 Defendants.

8 -----x

Trial

9 New York, N.Y.  
November 8, 2023  
10 9:30 a.m.

11 Before:

12 HON. J. PAUL OETKEN,

13 District Judge  
14 -and a Jury-

15 APPEARANCES

16 DAMIAN WILLIAMS,  
17 United States Attorney for the  
Southern District of New York  
18 SEBASTIAN A. SWETT  
EMILY S. DEININGER  
19 MATHEW ANDREWS  
Assistant United States Attorneys

20 MUKASEY FRENCHMAN LLP  
Attorneys for Defendant Costanzo  
21 MARC L. MUKASEY  
MICHAEL F. WESTFAL  
22 STEPHANIE GUABA  
TORREY K. YOUNG

23 GAINOR & DONNER  
24 Attorneys for Defendant Recio  
RONALD GAINOR  
25 AMBER E. DONNER

Nb82CosF

## APPEARANCES (continued)

Also Present: Dean Iannuzzelli, Paralegal Specialist (USAO)  
Nerlande Pierre, Paralegal Specialist (USAO)  
Marie-Lou Serna, Paralegal (Gainor & Donner)  
Sal Chan, Paralegal (Mukasey Frenchman)  
Delise Jeffrey, Special Agent, F.B.I.

Nb82CosF

(Trial resumed; jury not present; 9:40 a.m.)

THE COURT: Good morning, everyone.

THE COURT: We are handing out a copy of the general verdict form. Just run through it, make sure there are no issues. For each count, it is the same title as the indictment.

MS. DEININGER: The proposed verdict form looks fine to the government.

(Defense counsel confer)

MR. MUKASEY: Judge, we are okay with the verdict form.

THE COURT: Okay. Mr. Gainor, are you okay with the verdict form?

MR. GAINOR: Can I have a moment, your Honor?

THE COURT: Yes.

(Defense counsel and defendant confer)

MR. GAINOR: I am fine with it, Judge.

THE COURT: Okay.

I have marked as Court Exhibit 1 the copy of the jury instructions as given to the jurors.

Court Exhibit 2 is the note from this morning just saying who the jury foreperson is. It is from this morning at 9:37 a.m., and it just says "Jury foreperson Ann G. Daw, Juror No. 11.

We will send in the verdict form, the version that I

Nb82CosF

1 have given to you and you have approved.

2 What else do we need to address?

3 MS. DEININGER: There was one matter we wanted to  
4 raise for the record before the laptop with the exhibits goes  
5 back to the jury, which is that in preparing that last night  
6 the government became aware that there was a stipulation S11  
7 regarding two exhibits that was read and introduced during the  
8 defense case. I think it was the intention of all the parties  
9 to also admit those two exhibits, but that was not formally  
10 done.

11 We conferred with defense counsel -- that was the  
12 handwritten stipulation. We conferred with defense counsel  
13 last night, and I think we are all in agreement that the  
14 exhibits should be sent back to the jury. They were relied on  
15 by the parties in summations yesterday. That's Government  
16 Exhibit 507-2 and 9358. But we just wanted to put that on the  
17 record and get all the parties' agreement on that on the  
18 record.

19 MR. MUKASEY: Agreed.

20 MR. GAINOR: Agreed.

21 THE COURT: All right. So I will take that as  
22 agreement by the parties that S11 comes in.

23 MS. DEININGER: S11 was offered and admitted. It was  
24 the two exhibits Government Exhibit 507-2 and JC 9358.

25 MR. MUKASEY: DX JC 9358.

Nb82CosF

1 THE COURT: Got it. So I will take that as agreement  
2 that Government Exhibit 507-2 and Defense Exhibit JC 9358 shall  
3 be deemed admitted and will be included on the laptop with the  
4 exhibits.

5 MS. DEININGER: Thank you.

6 (Government's Exhibit 507-2 received in evidence)

7 (Defendant's Exhibit JC 9358 received in evidence)

8 THE COURT: Is the laptop ready to go, with that  
9 understanding?

10 MS. DEININGER: I believe so. We were making one edit  
11 to the exhibit list.

12 THE COURT: When that goes in, we will also send in  
13 one copy of the verdict form and we will be ready to go.  
14 Anything else?

15 MS. DEININGER: That was it. Thank you.

16 MR. MUKASEY: No.

17 THE COURT: Thanks, everybody.

18 (Recess pending verdict).

19 (Jury not present; 2:10 p.m.)

20 THE COURT: Please be seated. Good afternoon.

21 We did receive a note that says, "The jury has reached  
22 a verdict," signed "the foreperson," dated November 8, 1:42  
23 p.m. That note is marked Court Exhibit 3.

24 Are we ready to bring the jury out and take the  
25 verdict?

Nb82CosF

1 MR. SWETT: Yes, your Honor.

2 MR. MUKASEY: Yes, your Honor.

3 MR. GAINOR: Yes, your Honor.

4 THE COURT: All right.

5 (Jury present; 2:18 p.m.)

6 THE COURT: Members of the jury, I have your note  
7 indicating that the jury has reached a verdict from your  
8 foreperson.

9 Madam Foreperson, Ms. Daw, you are the foreperson,  
10 correct?

11 THE FOREPERSON: Yes.

12 THE COURT: Has the jury reached a verdict?

13 THE FOREPERSON: Yes, your Honor.

14 THE COURT: And is it unanimous?

15 THE FOREPERSON: Yes, your Honor.

16 THE COURT: Would you please hand the verdict form to  
17 Mr. Hampton.

18 Madam foreperson, if you would please stand, the  
19 courtroom deputy clerk will take the verdict.

20 THE DEPUTY CLERK: Count One, Conspiracy to Bribe a  
21 Public Official, as to defendant John Costanzo, Jr. how does  
22 the jury find? Not guilty or guilty.

23 THE FOREPERSON: Guilty.

24 THE DEPUTY CLERK: As to Manuel Recio, not guilty or  
25 guilty?

Nb82CosF

1 THE FOREPERSON: Guilty.

2 THE DEPUTY CLERK: Count Two, Public Official  
3 Accepting a Bribe, how does the jury find as to defendant John  
4 Costanzo, Jr.?

5 THE FOREPERSON: Guilty.

6 THE DEPUTY CLERK: As to Manuel --

7 THE COURT: That's Count Three.

8 THE DEPUTY CLERK: I'm sorry. Moving on to Count  
9 Three, Bribery of a Public Official, how does the jury find as  
10 to defendant Manuel Recio?

11 THE FOREPERSON: Guilty.

12 THE DEPUTY CLERK: Count Four, Conspiracy to Commit  
13 Honest Services Wire Fraud, how does the jury find as to  
14 defendant John Costanzo, Jr.?

15 THE FOREPERSON: Guilty.

16 THE DEPUTY CLERK: How does the jury find as to  
17 defendant Manuel Recio?

18 THE FOREPERSON: Guilty.

19 THE DEPUTY CLERK: Count five, Honest Services Wire  
20 Fraud, how does the jury find as to defendant John Costanzo,  
21 Jr.?

22 THE FOREPERSON: Guilty.

23 THE DEPUTY CLERK: And as to defendant Manuel Recio?

24 THE FOREPERSON: Guilty.

25 THE DEPUTY CLERK: Ladies and gentlemen of the jury,

Nb82CosF

1 please listen to your verdict as it stands recorded.

2 Count One, Conspiracy to Bribe a Public Official, as  
3 to John Costanzo, Jr., you found guilty. As to Manuel Recio,  
4 you found guilty.

5 Count Two, Public Official Accepting a Bribe, as to  
6 John Costanzo, Jr., you found guilty.

7 Count Three, Bribery of a Public Official, as to  
8 Manuel Recio, you found guilty.

9 Count Four, Conspiracy to Commit Honest Services Wire  
10 Fraud, as to defendant John Costanzo, Jr., you found guilty.  
11 As to defendant Manuel Recio, you found guilty.

12 Count Five, Honest Services Wire Fraud, as to  
13 defendant John Costanzo, Jr., you found guilty. As to  
14 defendant Manuel Recio, you found guilty.

15 So say you all?

16 JURORS: Yes.

17 THE COURT: Please poll the jury.

18 THE DEPUTY CLERK: Juror No. 1, is this your verdict?

19 JUROR: Yes.

20 THE DEPUTY CLERK: Juror No. 2, is this jury verdict?

21 JUROR: Yes.

22 THE DEPUTY CLERK: Juror No. 3, is this your verdict?

23 JUROR: Yes.

24 THE DEPUTY CLERK: Juror No. 4, is this your verdict?

25 JUROR: Yes.



Nb82CosF

1 THE DEPUTY CLERK: Juror No. 5, is this jury verdict?

2 JUROR: Yes.

3 THE DEPUTY CLERK: Juror No. 6, is this your verdict?

4 JUROR: Yes.

5 THE DEPUTY CLERK: Juror No. 7, is this your verdict?

6 JUROR: Yes.

7 THE DEPUTY CLERK: Juror No. 8, is this your verdict?

8 JUROR: Yes.

9 THE DEPUTY CLERK: Juror No. 9, is this your verdict?

10 JUROR: Yes.

11 THE DEPUTY CLERK: Juror No. 10, is this your verdict?

12 JUROR: Yes.

13 THE DEPUTY CLERK: Juror No. 11, is this your verdict?

14 JUROR: Yes.

15 THE DEPUTY CLERK: Juror No. 12, is this your verdict?

16 JUROR: Yes.

17 THE DEPUTY CLERK: Verdict unanimous.

18 THE COURT: Counsel, is there any reason I may not  
19 release the jury at this time.

20 MR. ANDREWS: No, your Honor.

21 MR. MUKASEY: No, Judge.

22 I have never made this request before, but I would  
23 like to ask if any of the jurors are interested in sharing  
24 their thoughts just in a casual way when they are finished with  
25 their service, I would be interesting in speaking with them.

Nb82CosF

1 No pressure, obviously, totally voluntary.

2 THE COURT: Sure. I will explain how things will go  
3 from here. I will have you go to the back, and I will speak to  
4 you for a few minutes. And those of you who do want to speak  
5 with the lawyers, as I will explain, you are welcome to do that  
6 at this point. I think what I will do is if anyone does want  
7 to speak to the jurors and the jurors, any of the jurors, do  
8 want to speak to them, I can have you come back to the back.

9 MR. MUKASEY: That would be excellent. Thank you.

10 MR. GAINOR: That's fine, Judge.

11 THE COURT: All right. Members of the jury, on behalf  
12 of the Court and myself, my staff, and the parties and counsel  
13 in the case, I want to thank you for your service.

14 This was a pretty long trial, it was over two weeks,  
15 and you have been attentive, you have focused on the evidence,  
16 you have paid close attention, and we really appreciate that.  
17 I know it's not easy. You are sitting through a lot of  
18 detailed testimony in a case like this, but you have done your  
19 duty as citizens, and I appreciate it. So I want to thank you  
20 for your service.

21 Your service is now completed as jurors in this case.  
22 I just want to say something about the system we have, which is  
23 an unusual system. Most systems in the world determine guilt  
24 or innocence based on nonpublic trials, behind closed doors,  
25 sometimes based on the decisions of a bureaucrat behind closed

Nb82CosF

1 doors, or someone who is appointed by somebody. In our system,  
2 12 people selected not quite randomly, but close to randomly,  
3 from the community decide cases like this, and you have been  
4 part of that system. You have acted as part of the government,  
5 in a sense, in deciding the facts of this trial, and I want to  
6 thank you all for doing that.

7 Now, what I have said in the past about you not  
8 discussing the case no longer applies. You can now discuss the  
9 case if you would like. There are no restrictions on that. I  
10 will say you don't have to discuss the case, and it's  
11 completely up to you whether you do talk about the case with  
12 the lawyers in the case or with anyone else. There is nothing  
13 preventing you from giving your own views and thoughts to any  
14 of the lawyers.

15 I will say, out of respect for your fellow jurors,  
16 please don't talk about what other people said in the jury  
17 room. Don't really talk about what happens in the jury room,  
18 because that's just out of respect toward those members of the  
19 jury who might want to remain confidential about what they  
20 talked about. But you are welcome to talk to the lawyers if  
21 you want about what you think was effective, what you think  
22 wasn't effective, things like that. But it really should be  
23 your own views and not what went on in the jury room, all  
24 right?

25 So one last thing is, in addition to my thanks here, I

Nb82CosF

1 want to come back and thank you for your jury service. You are  
2 now free to go. You should leave your notepads, jury  
3 instructions, any papers relating to the case in the jury room,  
4 and we will get rid of those. I'm going to come back and thank  
5 you. You can leave, but anyone who wants to stay behind, just  
6 so I can thank you and answer any questions you have about jury  
7 service and talk to you about what we might do better, I'm  
8 happy to do that. If you want, you can just head on out.  
9 That's fine.

10 And after I talk to you, if you would like, whoever  
11 wants to stick around, I will give you a chance to talk to the  
12 lawyers and answer questions that they might have, subject to  
13 what I have said about that.

14 So with that, I want to thank you. You are welcome to  
15 go back to the jury room and, as I said, I will be back in a  
16 few minutes for those who want to stick around.

17 Thank you again.

18 (Jury dismissed)

19 THE COURT: Please be seated.

20 Anything the parties would like to address in terms of  
21 scheduling or otherwise?

22 MR. SWETT: Not from the government, your Honor, other  
23 than to set a schedule for any motions and obviously  
24 sentencing.

25 MR. MUKASEY: Same.

Nb82CosF

1 MR. GAINOR: Yes.

2 THE COURT: Okay. I can either let you confer on that  
3 and get back to me or, if you want, we can go ahead and set any  
4 dates now.

5 MR. SWETT: We can confer.

6 THE COURT: Okay. If you could confer and just give  
7 me proposed dates, that's fine, and that can include a  
8 sentencing date, I assume, which would probably be -- we would  
9 be looking at March or April, I assume, something like that.

10 MR. SWETT: Yes, your Honor.

11 THE COURT: Okay. Thanks, everyone. We are  
12 adjourned.

13 oOo

14

15

16

17

18

19

20

21

22

23

24

25

Nb82CosF

## INDEX

## GOVERNMENT EXHIBITS

Exhibit No.	Received
-------------	----------

507-2 . . . . .	.2091
-----------------	-------

## DEFENDANT EXHIBITS

Exhibit No.	Received
-------------	----------

JC 9358 . . . . .	.2091
-------------------	-------